

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 18.11.2011

% **Judgment delivered on: 22.11.2011**

+ **W.P.(C.) No. 5677/2011**

JAMIA MILLIA ISLAMIA Petitioner
Through: Mr. M. Atyab Siddiqui, Advocate.

versus

SH. IKRAMUDDIN Respondent
Through: Mr. Zafar Sadique, Advocate.

**CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI**

1. Whether the Reporters of local papers may be allowed to see the judgment? : **Yes**
2. To be referred to the Reporters or not? : **Yes**
3. Whether the judgment should be reported in the Digest? : **Yes**

J U D G M E N T

VIPIN SANGHI, J.

1. The petitioner, Jamia Millia Islamia, a statutory public central institution regulated by Jamia Millia Islamia Act, 1988, assails the order dated 21.06.2011 passed by the Central Information Commission (in short referred to as "CIC") in the respondent's appeal No.CIC/SG/A/2010/001106, whereby the CIC has allowed the appeal preferred by the respondent and directed the Public Information Officer (PIO) of the petitioner to provide the complete information available as on record in relation to query No.1 of the respondent.

2. The respondent had sought information vide query No.1 as follows: *"Copies of Agreement/settlement between Jamia and Abdul Sattar S/o Abdul Latif & mania and Kammu Chaudhary in Ghaffar Manzil land"*. Two other queries were also raised, however, I am not concerned with them in this petition as the impugned order directs disclosure of information raised in query No.1 only, as aforesaid.

3. The PIO vide reply dated 18.03.2010 rejected the application of the respondent under the Right to Information Act, 2005 (the Act for short) by stating that the information sought had no relationship to any public activity or interest and, as such, the same could not be disclosed under Section 8(1)(j) of the Act. The first appellate authority also affirmed the order of the PIO on the same grounds. The CIC, as aforesaid, has allowed the appeal insofar as query No.1 is concerned.

4. Before the CIC, the submission of the petitioner was, and even before me is, that the disclosure of the title documents of the petitioner/public authority/institution is exempted under Section 8(1)(j) of the Act. It was argued that the information sought by the respondent was an invasion of the privacy of the institution and had no relationship with any public activity or interest. It was argued that in case the title documents of the petitioner fall in wrong hands, it could be highly prejudicial to the cause of the petitioner-Institution, as there was a possibility that the said title documents may be misused.

5. On the other hand, the argument of the respondent herein was that since the petitioner is a University, it had no right to withhold the information about it.

6. The CIC held that to qualify for the exemption contained in Section 8(1)(j) of the Act, the information sought must satisfy the following criteria:-

- “The information sought must be personal in nature. Words in a law should normally be given the meanings given in common language. In common language, we would ascribe the adjective ‘personal’ to an attribute which applies to an individual and not to an Institution or a Corporate. From this, it flows that ‘personal’ cannot be related to Institutions, Organisations or Corporates. Hence, Section 8(1)(j) of the RTI Act cannot be applied when the information concerns Institutions, Organisations or Corporates.
- The phrase ‘disclosure of which has no relationship to any public activity or interest’ means that the information must have been given in the course of a public activity. Various public authorities while performing their functions routinely ask for ‘personal’ information from citizens, and this is clearly a public activity. Public activities would typically include situations wherein a person applies for a job, or gives information about himself to a public authority as an employee, or asks for a permission, license or authorization, or provides information in discharge of a statutory obligation.
- The disclosure of the information would lead to unwarranted invasion of the privacy of the individual. The State has no right to invade the privacy of an individual. There are some extraordinary situations where the State may be allowed to invade the privacy of a citizen. In those circumstances special provisions of the law apply usually with certain safeguards. Therefore where the State routinely obtains information from citizens, this information is in relationship to a public activity and will not be an intrusion on privacy.”

7. The CIC held that for exemption under Section 8(1)(j) of the Act to apply, the information sought must be personal in nature, that it must pertain to an individual and not an Institution/Organization/Corporate. It was further held that whether

the information sought had a relationship with any public activity or interest is not a consideration, while interpreting Section 8(1)(j) of the Act. Consequently, the defence of the petitioner herein was rejected and the appeal was allowed.

8. The submission of Mr. Siddiqui, learned counsel for the petitioner, is that the petitioner – a statutory body, is a juristic entity. It is a “person” in law. He relies on the meaning of the expression “person” as defined in the *Black’s Law Dictionary* which, *inter alia*, means “an entity (such as a corporation) that is recognized by law as having the rights and duties of a human being”.

9. He submits that Article 14 of the Constitution of India also uses the expression “person” and reads:

“14. Equality before law.- The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

He submits that the fundamental right guaranteed by Article 14 of the Constitution of India is available not only to an individual, that is a living person, but also to a juristic person. He also relies on Section 3(42) of the General Clauses Act which defines a person to “include any company or association or body of individuals, whether incorporated or not”.

10. He submits that the expression “personal information” used in Section 8(1)(j) of the Act means the information in relation to any “person”, whether an individual or a juristic entity. He submits that the CIC is wrong in its conclusion that “personal information” can only relate to an individual. He further submits that Clause (j) of Section

8(1) of the Act uses both expressions “personal information” and “individual”. He submits that this itself shows that the expression “personal information” has a wider connotation than information relating to an “individual”.

11. Mr. Siddiqui further submits that Section 8, which provides the exemptions from disclosure of information, begins with a non obstante clause by stating *“Notwithstanding anything contained in this Act.....”*. Therefore, the exemptions contained in Section 8(1) of the Act override the right granted to a querist to seek information under Section 3 of the Act.

12. He submits that the disclosure of the information as allowed by the CIC can lead to serious consequences, inasmuch as, armed with the said information, the querist or any other person in whose hands the said information may fall, may misuse the same by resorting to forgery and fabrication.

13. On the other hand, the submission of learned counsel for the respondent is that the petitioner University, a statutory Corporation, is a public authority within the meaning of Section 2(h) of the Act. He submits that the CIC has only directed the disclosure of the copies of the Agreement/settlement arrived at between the petitioner and one Abdul Sattar in relation to Gaffar Manzil land. He submits that the petitioner being a public authority, every citizen is entitled to seek information in relation to its public activities and conduct. It is argued by the learned counsel for the respondent that under the Act, the rule is in favour of disclosure of information. He submits that even in relation to an individual, there is no absolute bar against disclosure of

his personal information. The disclosure of personal information in relation to an individual could be withheld by the public authority only where the disclosure of the information is either not in relation to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. However, even in such cases, the Central Public Information Officer (CPIO) or the State Public Information Officer (SPIO) or the appellate authority, on being satisfied, in larger public interest would disclose even such personal information.

14. I have given my due consideration to the issue raised. The preamble of the Act provides an aid to interpret clause (j) of Section 8(1) of the Act. The preamble of the Act, inter alia, states:

“An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority,”

And Whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

And Whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

And Whereas it is necessary to harmonise these conflicting interest while preserving the paramountcy of the democratic ideal;”

15. The thrust of the legislation is to secure access of information under the control of public authorities in order to promote transparency and accountability in the working of every public authority. The access to information is considered vital to the

functioning of a democracy, as it creates an informed citizenry. Transparency of information is considered vital to contain corruption and to hold Government and its instrumentalities accountable to the governed citizens of this country. No doubt, a “person” as legally defined includes a juristic person and, therefore, the petitioner is also a “person” in law. This is amply clear from the definition of the expression “person” contained in Section 3(42) of the General Clauses Act. That is how the expression is also understood in Article 14 of the Constitution of India.

16. However, in my view the expression “personal information” used in Section 8(1)(j) of the Act, does not relate to information pertaining to the public authority to whom the query for disclosure of information is directed.

17. No public authority can claim that any information held by it is “personal”. There is nothing “personal” about any information, or thing held by a public authority in relation to itself. The expression “personal information” used in Section 8(1)(j) means information personal to any other “person”, that the public authority may hold. That other “person” may or may not be a juristic person, and may or may not be an individual. For instance, a public authority may, in connection with its functioning require any other person – whether a juristic person or an individual, to provide information which may be personal to that person. It is that information, pertaining to that other person, which the public authority may refuse to disclose, if it satisfies the conditions set out in clause (j) of Section 8(1) of the Act, i.e., if such information has no relationship to any public activity or interest vis-à-

vis the public authority, or which would cause unwarranted invasion of the privacy of the individual, under clause (j) of Section 8(1) of the Act. The use of the words “invasion of the privacy of **the** individual” instead of “an individual” shows that the legislative intent was to connect the expression “personal information” with “individual”. In the scheme of things as they exist, in my view, the expression “individual” has to be and understood as “person”, i.e., the juristic person as well as an individual.

18. The whole purpose of the Act is to bring about as much transparency, as possible, in relation to the activities and affairs of public authorities, that is, bodies or institutions of self governance established or constituted: by or under the Constitution; by any other law made by Parliament; by any other law may by State legislature; any body owned or controlled or substantially financed directly or indirectly by the funds provided by the appropriate Government; any non-government organization substantially financed directly or indirectly by the funds provided by the appropriate Government; or any authority or body or institution constituted by a notification issued or by order made by the appropriate Government.

19. If the interpretation as suggested by the petitioner were to be adopted, it would completely destroy the very purpose of this Act, as every public authority would claim information relating to it and relating to its affairs as “personal information” and deny its disclosure. If the disclosure of the said information has no relationship to any public activity or interest.

20. Alternatively, even if, for the sake of argument it were to be accepted that a public authority may hold “personal information” in relation to itself, it cannot be said that the information that the petitioner has been called upon to disclose has no relationship to any public activity or interest.

21. The information directed to be disclosed by the CIC in its impugned order is the copies of the Agreement/settlement arrived at between the petitioner and one Abdul Sattar pertaining to Gaffar Manzil land. The petitioner University is a statutory body and a public authority. The act of entering into an agreement with any other person/entity by a public authority would be a public activity, and as it would involve giving or taking of consideration, which would entail involvement of public funds, the agreement would also involve public interest. Every citizen is entitled to know on what terms the Agreement/settlement has been reached by the petitioner public authority with any other entity or individual. The petitioner cannot be permitted to keep the said information under wraps.

22. In the light of the aforesaid discussion, I do not find any merit in this petition and dismiss the same as such.

(VIPIN SANGHI)
JUDGE

NOVEMBER 22, 2011
vk